

REMARKS

This paper is responsive to an *Official Action* that issued in this case on October 1, 2007. In that *Action*, the Office:

- Objected to the specification, requiring “blanks” to be filled in with serial numbers or otherwise corrected.
- Rejected claims 1, 4-6, 8, 11-13, 21-23, 26-27, 30-31, and 34-38 under 35 USC §102 as being anticipated by U.S. Pat. No. 6,773,263 to Nicholis *et al.*
- Rejected claims 19 and 24-25 under 35 USC §103 as being obvious over Nicholis *et al.* in view of U.S. Pat. No. 6,470,302 to Cunningham *et al.*
- Objected to claims 2-3, 7, 9-10, 14-18, 20, 28-29, and 32-33 as being dependent upon a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Responsive to the *Action*, applicant hereby provides the missing serial numbers in the specification, amended claims 1-3, 11-12, 14, 21, 27 and 28, and has canceled claims 35-38. Reconsideration is requested in view of the foregoing amendments and the following arguments.

Claims 1-11, 17, 18, 19 and 20

The Office rejected claim 1 as being anticipated by Nicholis *et al.* Claim 1 has now been amended to incorporate the limitations of claims 11 and 14. Based on the Office’s indications concerning claim 14, this amendment should place claim 1 in condition for allowance.

Claims 4-11 and 18-19 should also be in condition for allowance since they are ultimately dependent upon claim 1. It is notable that the recitation of additional patentable features in dependent claims 4-11 and 18-19 provides a secondary basis for their patentability.

Claims 2 and 3 have been rewritten as independent claims that incorporate the limitations of claim 1 as well as the limitations that were originally present in those claims. Based on the Office’s indications, these amendments should place amended claims 2 and 3 in condition for allowance.

Claim 20 is dependent on claim 2 and claim 17 is dependent on claim 3. Based on their dependence on what are now believed to be allowable base claims, claims 17 and 20 should be in condition for allowance. The recitation of additional patentable features in dependent claims 17 and 20 provides a secondary basis for their patentability.

Claims 12-16

The Office rejected original claim 12 as being anticipated by Nicholis *et al.* As originally filed, claim 12 recited a dependency to claims 11 and 1. Claim 12 recited the limitation that “a magnitude of said force is substantially constant during application of said force.” The force being referred to, which is referenced in claim 11, is a force that is generated by the palpation module and which “opposes downward motion of said pseudo vein.”

Applicant agrees with the Office’s assertion that Nicholis *et al.* (implicitly) discloses that a force is generated that opposes downward motion of the pseudo vein. Applicant also agrees that this force is the natural result of the fact that the pseudo vein “is not suspended in free space.” And applicant agrees with the Office that “any downward force would produce a counter force that varies with the applied pressure” as dictated by physics. The applicant *disagrees*, however, with the assertion that the force would be “constant.” In fact, this counter force will *not* be constant; rather, it will vary with the applied pressure.

The Office seemingly recognized that the counter force will vary with applied pressure, but did not recognize that the applied pressure will necessarily vary. That is, in the Nicholis *et al.* arrangement, the force applied by a user attempting to palpate the vein will necessarily vary since pseudo vein (15) is disposed in conductive *elastomer* (12). As the user presses down to palpate the pseudo vein, elastomer (12) will compress, thereby requiring increasing force for continued downward pressing by the user. As a consequence, the equal and opposite force generated by the elastomer (12) will increase.

It is also noted that the pseudo vein (15) must comprise a resilient material since it is intended to convey the feeling of “a palpable arterial pulse.” That is, one could not feel liquid pulsing through the pseudo vein if it had a rigid structure. Consequently, if a user pushes down on a resilient hose that is filled with a liquid, the pressure rapidly rises in response to the user’s push (since liquid is incompressible). Therefore, the counter force will increase to balance this increase in pressure. Furthermore, the pressing on resilient pseudo vein will require increasing pressure since the material that forms the vein compresses.

Applicant was quite aware of the significance and novel ability of some embodiments of the claimed invention to generate a force having a magnitude that is substantially constant during the application of force by a user. See paragraphs [0059], [0063], and [0067] regarding the simulation of the ideal “spongy” sensation when a vein is palpated.

Nicholis *et al.* does not disclose or suggest a palpation module for palpating a pseudo vein, wherein the palpation module generates a force that opposes downward motion of said pseudo vein and wherein a magnitude of said force is substantially constant during application of said force. Amended claim 12 is therefore not anticipated by Nicholis *et al.* It is requested that the rejection of claim 12 be withdrawn.

Claims 13-16 are also in condition for allowance since they are ultimately dependent upon claim 12. The recitation of additional patentable features in these dependent claims provides a secondary basis for their patentability.

Claims 21-26

The Office rejected original claim 21 as being anticipated by Nicholis *et al.* Claim 21 has now been amended to incorporate the limitations of claims 11 and 14. Based on the Office's indications concerning claim 14, this amendment should place claim 21 in condition for allowance.

Claims 22-26 are now believed to be in condition for allowance since they are ultimately dependent upon claim 21. The recitation of additional patentable features in dependent claims 22-26 provides a secondary basis for their patentability.

Claims 27-34

The Office rejected original claim 27 as being anticipated by Nicholis *et al.* Claim 27 has now been amended to incorporate the limitations of claim 28. Based on the Office's indications concerning claim 28, this amendment should place amended claim 27 in condition for allowance.

Claims 28-34 are now believed to be in condition for allowance since they are ultimately dependent upon claim 27. The recitation of additional patentable features in dependent claims 28-34 provides a secondary basis for their patentability.

Conclusion

It is believed that claims 1-34 now presented for examination are in condition for allowance.

A notice to that effect is solicited.

Respectfully,
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